

EDUCATION AND WORKFORCE DEVELOPMENT
Kentucky Commission on the Deaf and Hard of Hearing
(Amendment)

735 KAR 2:060. Grievance procedures.

RELATES TO: KRS 12.290, 163.510(4) 201 KAR 39:120

STATUTORY AUTHORITY: KRS 163.510(4), 163.515~~[1998 GA HB 321, Commonwealth Budget Final Budget Memorandum, FB 1998-2000]~~

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessary to implement KRS 163.510(4), which authorizes the Kentucky Commission on the Deaf and Hard of Hearing ~~[(KCDHH)]~~ to oversee the provision of interpreting and captioning services and to provide such services if necessary.~~[House Bill 321 (1998) and the Commonwealth Budget Final Budget Memorandum specifically authorizes the KCDHH to provide interpreter referral services to state agencies.]~~ This administrative regulation establishes a process for receiving and handling complaints against interpreters, captioners, state agencies or the Interpreter Referral Services Program.

Section 1. (1) Grievances may be filed against the:

(a) Interpreter (freelance or assigned);

(b) Captioner;

(c)~~[(b)]~~ State agency;~~[or]~~

(d)~~[(c)]~~ KCDHH Interpreter Referral Services Program staff; or

(e) Interpreter Referral Agency.

(2) All grievances shall be submitted in writing or on video within ninety (90) days of the event in question to the Executive Director of the Kentucky Commission on the Deaf and Hard of Hearing, 632 Versailles Road, Frankfort, Kentucky 40601 and must include:

(a) Name, address, and phone number of person filing the grievance;

(b) Name and role (i.e., interpreter, captioner, state agency, referral agency) of person(s) against whom the grievance is being filed;

(c) Date, time and location of the alleged violation;

(d) Description of the alleged violation and, if known, reference made to the appropriate authorizing body, per 201 KAR 39:120, [NAD or RID] Code of Ethics, and what was~~[that were]~~ allegedly violated; and

(e) Signature of the complainant.

(3) Anonymous grievances will not be recognized.

(4) The KCDHH Executive Director~~[Interpreter Referral Services staff]~~ will investigate the alleged grievance within thirty (30) days of receiving the grievance.

(5) Copies of the grievance shall be made available to the:

(a) Complainant;

(b) Respondent (person grievance is against);

(c) Witnesses; and

(d) All other pertinent parties to the grievance or the investigation.

(6) The KCDHH Executive Director~~[Interpreter Referral Services staff]~~ shall submit a written decision within sixty (60) days of receiving the grievance, which may result in:

(a) Mediation among the involved parties; and

(b) Dismissal of the grievance; or

(c)~~[(b)]~~ The grievance being referred to the Kentucky Board of Interpreters~~[national certifying body]~~, if the grievance is of serious nature.~~[; or]~~

~~(c) Dismissal of grievance; or~~

~~(d) The KCDHH Interpreter Referral Service has the right to discontinue utilizing the services of an interpreter based on the findings of a grievance.]~~

~~(7) If the decision of the KCDHH Executive Director [Interpreter Referral Services Program staff] is appealed, the KCDHH Commissioner Executive Board [Interpreter Services Advisory Board] shall review the decision and make a ruling. [(8) If the decision of the KCDHH Interpreter Services Advisory Board is appealed, then the Executive Director of the KCDHH shall review the decision and make a ruling.~~

~~(9) If the decision of the Executive Director of the KCDHH is appealed, then the Commissioners of the KCDHH shall review the decision and make a ruling.]~~

~~(8) [(10)] If the decision of the KCDHH Commissioner Executive Board [Commissioners of the KCDHH] is appealed, then the KCDHH shall comply with all provisions of KRS Chapter 13B.~~

~~(9) The KCDHH Interpreter Referral Service Program has the right to discontinue utilizing the services of a freelance or assigned interpreter, the State agency, Interpreter Referral Agency, or captioner based on the findings of a grievance.~~

~~(10) [(11)] All records of grievances filed and the proceedings shall be kept at the KCDHH offices in accordance with the Open Records and Open Meetings Law.~~

VIRGINIA L. MOORE, KCDHH Executive Director

APPROVED BY AGENCY: April 10, 2018

FILED WITH LRC: April 11, 2018 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 21, 2018, at 10:00 a.m. EST, at the Kentucky Commission on the Deaf and Hard of Hearing office located at 632 Versailles Road, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by May 14, 2018, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2018. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Virginia L. Moore, Executive Director, email virginia.moore@ky.gov, 632 Versailles Road, Frankfort, Kentucky 40601, phone (502) 573-2604 v/t, fax (502) 573-3594, or VP (502) 416-0607.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Virginia L. Moore

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation outlines grievance procedures for anyone who works within or for the Interpreter Referral Services Program to provide or receive interpreting or captioning services for deaf and hard of hearing consumers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement the provisions of KRS163.510(4), which mandates that the Kentucky Commission on the Deaf and Hard of Hearing administer the Interpreter Referral Services Program,

to meet the needs of deaf and hard of hearing individuals participating in services offered by state agencies. The regulation outlines grievance procedures for participants in the program and includes entities working for the program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing procedures for filing grievances related to a request for interpreting or captioning service within the Interpreter Referral Services Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation clarifies procedures for filing a grievance with the Kentucky Commission on the Deaf and Hard of Hearing Interpreter Referral Services Program, in compliance with KRS Chapter 13B.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment clarifies procedures for filing a grievance against interpreters, agencies, or captioners providing services through the Interpreter Referral Services Program. The amendment updates the process of appealing grievances since the implementation of the Kentucky Board of Interpreters.

(b) The necessity of the amendment to this administrative regulation: This amendment adds captioners and agencies to the grievance procedures, and updates the process of hearing and appealing grievances since the implementation of the Kentucky Board of Interpreters.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment explains updated grievance procedures pertaining to the request for interpreters and captioners through the Interpreter Referral Services Program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment explains updated grievance procedures pertaining to requests for interpreters and captioners and includes procedures for referring grievances to the Kentucky Board of Interpreters.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The 700,000 deaf and hard of hearing consumers in the Commonwealth that utilize interpreters or captioners to access state services will be more equitably served. Agencies providing services to deaf and hard of hearing consumers will comply with ADA requirements and are allowed to initiate grievances regarding those services.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Consumers and state agencies identified in question (3) will not have to take any additional actions to comply with the amendment to this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional charge to consumers or agencies in order to comply with the amendments to this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Consumers or state agencies requesting interpreter or captioner services will have additional information regarding the process of filing a grievance against the interpreter, captioners, state agency, interpreter referral agency or Interpreter Referral Services Program staff.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no cost to the administrative body initially to implement this

amendment. Indirect costs include 10% of the Executive Director's time to supervise the administration of this program.

(b) On a continuing basis: There will be no cost to the administrative body ongoing to implement this amendment. Continued indirect costs include 10% of the Executive Director's time to supervise the administration of this program.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General Funds already allotted to the operation of the Interpreter Referral Services Program supports the implementation of this amendment. The Executive Director works within the agency's annual budget, as provided by the General Assembly and monitored by the Commission board per KRS 163.506.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fees or funding is required to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased because of implementation of this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied, or required, to implement this amendment as the program functions as part of the overall mission of KCDHH.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties fire departments, or school districts) will be impacted by this administrative regulation? State agencies and consumers utilizing the Interpreter Referral Services Program will benefit from the clarification to grievance procedures made in this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. State statutory authority; KRS 12.290, KRS 163.510(4), 163.506 and KRS Chapter 13B. Federal statutory authority; 29 U.S.C. Sec 794 and 42 U.S.C. Sec 12132.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire department, or school districts) for the first full year the administrative regulation is to be in effect. There is no effect on the expenditures and revenues of state government agencies because of this amendment.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated for the first year because of this amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue for subsequent years will be generated because of this amendment.

(c) How much will it cost to administer this program for the first year? The cost for administration of the Interpreter Referral Services Program for the first year is included in KCDHH's general fund budget, and will not increase because of this amendment.

(d) How much will it cost to administer this program for subsequent years? The cost for administration of the Interpreter Referral Services Program for subsequent years is included in KCDHH's general fund budget, and will not increase because of this amendment Note:

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): The Executive Director works within the agency's annual budget, as provided by the General Assembly and monitored by the Commission Board per KRS 163.506, to

run the Interpreter Referral Services Program. There is no direct impact on revenues because of this amendment.

Expenditures (+/-): (+/-): The Executive Director works within the agency's annual budget, as provided by the General Assembly and monitored by the Commission Board per KRS 163.506, to run the Interpreter Referral Services Program. There is no direct fiscal impact on expenditures because of this amendment.

Other Explanation: None